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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,914	09/18/2000	Adelmo Monsalve-Gonzalez	5346	4221
21186	7590	12/23/2003	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER

1761

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/663,914

Applicant(s)

MONSALVE-GONZALEZ ET AL.

Examiner

Lien T Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-25, 27, 31-58 and 60-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 60-63 is/are allowed.
- 6) ☒ Claim(s) 21-25, 27, 31-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

The 112 first paragraph rejection of claims 21-25, 27, 31-58 and 60-63 is hereby withdrawn.

Upon further consideration, the indication of allowability of claims 21-25, 27, 31-58 is hereby withdrawn.

Claims 21-25, 27, 31-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devic (5,219,601).

Devic discloses a process of bleaching plant materials. The materials can be brans of cereals. The material is bleached by suspending it in water and adding hydrogen peroxide in a proportion of 1-15% by weight relative to the weight of the dry plant. The bleaching step is carried out at a temperature of from 40-100 degree C for about 15 minutes to 5 hours. (see column 4). The Devic process also comprises the steps of filtering and washing the plant material suspension before the bleaching. The bleaching step includes adding an alkaline agent in an amount ranging from .2-5%. The alkaline solution can contain a hydrogen peroxide stabilizing agent such as sodium silicate, magnesia, pyrophosphate etc.. in an amount of not more than 1%. The alkaline solution can also contain one or more complexing or sequestering agents for metal ions. After the plant is bleached, the bleached plant material is filtered and washed. At the end of the bleaching step, the residual hydrogen peroxide is eliminated by treating with catalase. The bleaching time varies and typically ranges from 15 minutes to 5 hours. The bleached plant material can be dried according to conventional techniques. (see columns 2-5)

Devic does not disclose the L value, the properties, adding the bran to the type of foods claimed, the amount of bran added to the food product, the particle size

Devic discloses a bleached bran product that is obtained by treatment with alkaline aqueous hydrogen peroxide solution and also in the presence of a chelating agent. The Devic process is a wet bleaching process because the bran is suspended in water and the hydrogen peroxide and alkaline agent are added to the suspension. There is no disclosure of the plant material completely absorbing the aqueous solution. Since the Devic product is obtained by bleaching steps which are the same as claimed, the product obviously has the properties such as antioxidant activity, water absorption value, reducing the native flavor components as claimed. With respect to the L value, it would have been obvious to vary the degree of whiteness depending on the intended use of the product. For example, if the bleached bran is added to flour, it would be desirable to have a high degree of whiteness to match the color of the flour. However, if the bleached bran product is added to dough containing whole wheat flour, or dark color component such as brown sugar, then the whiteness of the product is not that critical. It would also have been obvious to add the bleached bran product to any foods when it is desirable to increase the fiber content of the products; this would have been an obvious matter of choice. As to the difference in the processing parameters claimed in claims 43,45,46,55,57, 61, 62, the claims are directed to a product. Determination of patentability in "product-by-process claims" is based on the product itself. Such product is unpatentable if it is the same as or obvious from a product of prior art (see *In re Thorpe* 227 USPQ 964).

Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Devic as applied to claims 21-25, 27, 31-57 above further in view of Stanley (4844924).

Stanley discloses a method of bleaching dietary fiber material. The bleaching is done using conventional oxidative bleaching agents such as peroxides, peracids, chlorites and ozone (see col. 3 lines 63-65).

It would have been within the skill of one the art to determine through routine experimentation which bleaching agent or if a combination of bleaching agent gives the best result and to use them accordingly. Optimization is within the skill of one in the art. If it is determined that a combination of bleaching agents gives the best result, then it would have been obvious to use a combination of agents . The use of combination of bleaching agents is known in the art as shown by Stanley and peroxide, ozone and peracids belong to the same category of bleaching agent because all are oxidative bleaching agents.

Claims 60-63 are free of prior art because there is no teaching of a bleached bran product which is obtained by treating bran with a hydrogen peroxide solution and an aqueous alkaline solution in a wet bleaching process and then followed by an ozone treatment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Wednesday and Friday..

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


LIEN TRAN
PRIMARY EXAMINER
Group 1700